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SIPDIS

SENSITIVE

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SUBJECT: AUSTR Weisel Visit to Hanoi: WTO Getting Closer

SENSITIVE - NOT FOR INTERNET DISTRIBUTION

11. (SBU) Summary. In meetings with the Minister of Trade, the Vice Chairman of the National Assembly Economic and Budgetary Committee, and the Vice Chairman of the Office of Government, Assistant U.S. Trade Representative Barbara Weisel delivered the message that U.S. and Vietnamese WTO negotiators were close on the issues and that bilateral negotiations could be concluded in a few months if both sides stay focused and maintain momentum. She stressed that good bilateral and multilateral packages as well as complete implementation of the U.S.-Vietnam Bilateral Trade Agreement (BTA) would be essential to win Congressional support for Permanent Normal Trade Relations (PNTR) status for Vietnam. Her Vietnamese interlocutors assured her that they are striving to pass legislation that is WTO and BTA consistent. They urged the United States to lower its demands in light of Vietnam's transition economy status and suggested that negotiations be raised to a ministerial level. The Ambassador accompanied Weisel to the Trade Ministry and the Office of Government. End Summary.

Minister of Trade

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12. (SBU) In his October 11 meeting with AUSTR Barbara Weisel, Trade Minister Truong Dinh Tuyen said that the ASEAN Trade Ministers had recently decided to speed up the liberalization of services with a focus on 11 sectors. Tuyen commented that the United States focuses too much on its bilateral relations with ASEAN member states and pays too little attention to ASEAN as a whole. He urged the United States to combine its efforts on bilateral and ASEAN relations.

13. (SBU) Agreeing on the need for the United States to have relations with ASEAN as well as with its members, Weisel remarked that of the ASEAN countries, all of which are in her portfolio, Vietnam is the country in which U.S. businesses are most interested. Because of this interest and the potential opportunities here, Ambassador Portman had asked her to go to Hanoi to discuss WTO accession, BTA implementation and the future vote on Permanent Normal Trade Relations (PNTR) in Congress. Weisel handed the Minister a letter from U.S. Trade Representative Portman.

14. (SBU) Noting that Vietnam's Working Party meeting in Geneva in September had gone well, Weisel said she expects progress to continue. However, to build support for the PNTR vote, Congress must agree that BTA implementation has been satisfactory. Since the spotlight will be on Vietnam next year as it hosts APEC, this would be a good time to conclude WTO accession. USTR wants to shepherd a smooth PNTR process, so it is important that there be no surprises. Although Vietnam's BTA implementation has generally been good, there are five key areas of concern: trading rights, distribution rights, IPR, investment and transparency. Legislation in some of these areas still needs to be enacted.

15. (SBU) Pledging that Vietnam would meet its BTA obligations, Tuyen distinguished between implementing obligations and exceeding them. For example, Vietnam had not granted trading rights to Ford Motor Company because the BTA does not yet provide such rights in the auto sector. Tuyen said that he had received a paper from AmCham outlining concerns with BTA implementation and plans to meet with them in November after his trip to China. The Minister stressed that the GVN is doing its best on IPR, but it is a difficult issue in Vietnam and elsewhere in Asia. Vietnam is perfecting its legislation, trying to implement laws effectively, and enhancing awareness. The Vietnamese people are now more aware of the benefits of IPR rights and therefore more willing to respect the rights of others. However, noting that IPR is connected with technological development which takes time, Tuyen asked for understanding.

16. (SBU) Weisel explained that the concern on trading and distribution rights was that implementing regulations impose

licensing requirements and fees, which roll back BTA achievements. Tuyen assured her that this was a misunderstanding. He had not yet seen the draft decrees in question, but would make sure that any BTA inconsistent language was removed and would listen to comments from AmCham. On trading rights, the GVN is relying on advice from the USAID-funded STAR program (Support for Trade Acceleration), which would ensure that the decree met BTA requirements. Expressing appreciation for the Minister's assurances, Weisel said she looked forward to good discussions on the IPR issue with the National Assembly delegation in Washington the following week. She also noted that she hopes to receive the latest draft of the IPR law's implementing regulations before those discussions.

17. (SBU) Despite some significant improvements, some aspects of the draft investment law raise concerns, particularly the approval procedure for investments over USD 20 million, Weisel said. This provision could discourage investment, she stressed. USTR would provide detailed comments later. Tuyen said that the law had to be in accord with BTA investment chapter obligations without violating WTO rules on trade-related investment measures (TRIMS). The GVN also would like for the law to create a favorable climate for investment, so it would welcome comments.

18. (SBU) Turning to Vietnam's WTO accession, Weisel said that the U.S. side was waiting to hear from Vietnam on some of the issues from the September Working Party meeting in Geneva. The U.S. side owes the Vietnamese some background on some issues as well. This work should be completed as soon as possible so we can arrange the next meeting. Pointing out that Vietnam has concluded bilateral negotiations with 22 partners, the Minister urged the United States not to set standards so high that Vietnam would lose the incentive to negotiate. Weisel emphasized that the United States shares Vietnam's desire to move quickly. Following Geneva, the two sides have an agreed agenda to follow and "we can get it done if we keep focused." The end is in sight and a conclusion in the next few months would be possible, but staying focused is important, she added.

#### National Assembly -----

19. (SBU) Weisel met with Tao Huu Phung, Vice Chairman of the Economic and Budgetary Committee of Vietnam's National Assembly. Phung stressed that the National Assembly is actively making laws to meet all the requirements of the United States and the WTO. In the last session, the National Assembly had passed a number of laws including the customs law, the law on export taxes, the competition law, as well as laws on anti-dumping and on subsidies. In the next session starting October 18, the Assembly plans to enact 14 new laws and ordinances, including the common investment law and unified enterprise law, as well as laws on negotiable instruments, foreign exchange, and taxation. These new laws are intended to create a level playing field for foreign and domestic companies. The unified enterprise law will replace separate laws on state and private firms and will make state-owned enterprises (SOEs) more market-oriented and independent from the Government. The tax law will unify tax rates on domestic and imported products, including autos, beer, distilled spirits and cotton. The Government will adopt implementing regulations as the laws are passed and the Assembly will oversee implementation. In 2006, the Assembly will pass another 16 laws and regulations, including laws on electronic transactions, telecom, property registration, land use, housing and personal income tax. Such rapid activity demonstrates Vietnam's efforts to meet WTO accession requirements.

10. (SBU) In response to Weisel's questions on the investment law, the Vice Chairman said that the aim of the law is to simplify administrative procedures by combining business registration and investment licensing and by creating a one-stop shop for businesses. The law and regulations will be transparent about which sectors are restricted for investment. It will set up a level playing field for foreign and domestic business. Phung said that the draft IPR law would be very detailed so that the implementing regulations would probably add very little. The latest drafts of the law and regulations are not yet available since they have undergone major changes, he noted. He was aware that a National Assembly delegation would soon go to the United States to study IPR and that USTR would need copies of the regulations for these discussions.

11. (SBU) On WTO accession, Weisel said that the United States shares Vietnam's goal of accession and hopes to complete bilateral negotiations in the next few months. She observed that she receives more business inquiries about Vietnam than about any other country in her portfolio. After the recent productive working party meetings in Geneva, both sides know where they need to go. Phung said that the United States has high requirements for Vietnam,

but commented that Vietnam's ability to meet those requirements is low. He urged the United States to lower its demands. Weisel replied that the two sides were fairly close and if the two negotiating teams could do their work, negotiations could be completed. However, to persuade Congress to pass PNTR for Vietnam, USTR will have to show complete BTA implementation and a strong WTO accession package. On BTA implementation, she noted that problems remain with trading and distribution rights as well as with licensing fees. The Vice Chairman said that the USAID-funded STAR program is helping Vietnam on BTA implementation and that USTR should bring implementation problems to STAR's attention so that they could be resolved.

Office of Government  
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12. (SBU) Meeting with Vice Chairman Nguyen Quoc Huy at the office of government, AUSTR Weisel repeated her message that the "end is in sight" and both sides must redouble their efforts to complete the bilateral negotiations. She hoped to be able to schedule another negotiating meeting as soon as both sides complete their "homework" from negotiations in Geneva. She also emphasized the importance of BTA implementation. Passage of PNTR will require both a good bilateral and multilateral package and a good record on BTA implementation. On the whole, BTA implementation has gone smoothly, but a few areas of concern, such as trading rights, remain. The interim solution for implementing trading rights pending passage of new legislation is not working well. This involves having an MOT point of contact work with firms to ensure that the commitment is honored even though the implementing regulations do not yet exist. So far no U.S. company has received a general license to trade, only licenses for specific shipments. Furthermore, the implementing regulations for the draft trading and distribution laws are likely to impose additional or new licensing requirements or fees that would undermine rights granted in the BTA.

13. (SBU) Huy replied that on the margins of the Prime Minister's visit to Washington, the U.S. side had raised some BTA implementation issues that the GVN is working to resolve. He welcomed U.S. comments on the draft investment law. All draft laws are available on the National Assembly website and if the U.S. side discovers any provisions that would violate BTA provisions, it should notify the GVN so that the laws can be fixed. On IPR, Huy admitted that Vietnam has difficulty enforcing IPR, but noted that, compared with China, Vietnam is making progress. IPR is in the interest of Vietnam as well as the United States; Vietnamese musicians and artists are now interested in it. On the bilateral WTO negotiations, Huy said that the Prime Minister had just written to President Bush making two requests: that, taking into consideration that Vietnam is a transition economy, the United States should lower its demands and that the two sides should hold another round of negotiations in October.

14. (SBU) Weisel said that she looked forward to seeing the letter to the President. The United States is eager to meet again with the Vietnamese, but a meeting would be more productive once Vietnam has submitted new offers on agricultural and non-agricultural goods. On telecom and financial services, the two sides still need to look at the ideas they explored last month in Geneva to see whether they can close. The U.S. goal is to conclude an agreement on commercial terms that it can successfully present to Congress.

15. (SBU) The Ambassador stressed the importance of BTA implementation because of its effect on American attitudes. The U.S. business community supports Vietnamese accession to the WTO. However, as the end of the negotiation process comes closer, businesses look to their own interests and how these are reflected in the agreement. To be constructive, the AmCham had drafted a position paper, which it shared with the GVN. Suggesting that the GVN take the paper seriously, the Ambassador commented that Trade Minister Tuyen intends to meet with the AmCham, which is an excellent idea. Ultimately, the attitude of American business will be pivotal as Congress considers PNTR.

16. (SBU) The Ambassador also raised Boeing's problem in getting paid. He said that he appreciated Huy's help in getting the paperwork out of the Prime Minister's office. However, two weeks later, Boeing has still not been paid due to a delay in obtaining approval from Vietnam Airlines' Board of Directors. The Ambassador asked Huy to help. Huy responded that the GVN is still struggling with its poor "administrative system." He said that this will be fixed in time, but made no promise on the payment to Boeing.

17. (SBU) Returning to the issue of bilateral negotiations on WTO accession, Huy suggested that it was time to raise the negotiations to the ministerial level on both sides. He said that Minister of Trade Tuyen was ready to go to the

United States to work out a deal this month and he hoped that the U.S. side would support such a trip. The Ambassador said that he saw no advantage for Tuyen to go to the United States until Vietnam had submitted new offers. AUSTR Weisel added that Vietnam wants a political-level decision, but the U.S. position is that the agreement must be on commercial terms. The agreement must have U.S. business support in order to get PNTR through Congress.

MARINE